IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 154 of 1987
IN
SPECIAL CIVIL APPLICATIONNo 2729 of 1986

with

CIVIL APPLICATION (SCA & SA BR.) No 916 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMANLAL S DANDE

Versus

STATE OF GUJARAT

Appearance:

1. LETTERS PATENT APPEAL No. 154 of 1987
MR PM THAKKAR for Appellant No.
MS NANDINI JOSHI, AGP for Respondent No. 1
RULE SERVED for Respondent No. 2

2. Civil Application (SCA & SA BR.) No. 916 of 1987
MR PM THAKKAR for Appellant No.
MS NANDINI JOSHI, AGP for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 18/06/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

1. The appellants have filed this appeal against the judgment and order dated 24/6/1986 passed by the learned Single Judge of this Court in Special Civil Application No. 2729 of 1986, whereby the learned Single Judge has dismissed the writ petition of the present appellants petitioners.

2. Against the apprehended action of suspension petition was filed by the appellants - petitioners. Before the learned Single Judge it was submitted that the complaint was malafide and it was filed at the instance of some relatives of the Police Commissioner. The learned Single Judge did not accept the submission on the ground that it was at premature stage. From the bare perusal of the averments made in the complaint the learned Single Judge found that the allegations were of very serious nature. Therefore, if the authority is restrained from not suspending them, then it may hamper the investigation of the case as well as inquiry proceedings, if any.

3. On behalf of the appellant - petitioner no. 2 one more submission was made that his name was not shown in the complaint and there were no allegations against him. However, the learned Judge repelled that contention after going through the averments made in the complaint by observing that mere non-mentioning of the name of petitioner no. 2 would not make any difference. One more contention was also raised that both of them were transferred and therefore, having transferred them, they cannot be suspended. The learned Judge rightly rejected that contention on the ground that ordinarily suspension and transfer both cannot be resorted to, but in a special case like this, where there are serious allegations, then only on that ground suspension cannot be stalled. This order of dismissal of writ petition passed on 24/6/1986 by the learned Single Judge of this Court was challenged by the appellants by way of this appeal in July 1986 alongwith Civil Application No. 916 of 1987 for stay.

4. Initially Division Bench of this Court ordered to

issue notice to the otherside on this appeal in July 1987 and later on it was admitted on 12/8/1987.

4.1. On Civil Application for stay notice was issued on 1/7/1987 and thereafter rule was made returnable on 19/8/1987 by the Division Bench of this Court but no interim order was passed. Under the circumstances, we are not inclined to interfere with the order passed by the learned Single Judge dismissing the writ petition after more than 17 years because no interim relief was granted and by now the entire matter must have come to an end. Even otherwise, having carefully gone through the judgment and order passed by the learned Single Judge of this Court, we would not have interferred with the judgment and order.

5. In view of the above discussions, this appeal fails and is hereby dismissed with no order as to costs. Civil Application is dismissed as main appeal is dismissed. Rule discharged with no order as to costs.

[B.J. SHETHNA, J.]

[AKSHAY H. MEHTA, J.]

* Pansala.